IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO.1916 OF 2004
IN
WRIT PETITION NO.2886 OF 2002

Ms.Yvonne Furtado).. Petitioner

Versus

The Presiding Officer, 2nd Labour Court, Bandra and another).. Respondents

Ms.Yvonne Furtado, Petitioner, present in person.

Mr.S.K.Talsania i/b.Sanjay Udeshi for Respondent No.2.

Respondent No.1 formal party.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 11TH AUGUST 2004

P.C.:

. In this Civil Application, the Petitioner has prayed for subsistence allowance at a rate equal to the monthly salary last earned by her. She has also prayed for fixing the Writ Petition for final hearing. The prayer in this Civil Application is made on the basis that the proceedings before the Tribunal have been prolonged endlessly and the dismissal order passed against her by the second Respondent Company is null and void. She further has stated in the Civil Application that some subsistence allowance should be paid to her since she is unable to secure any alternate employment.

2. The Writ Petition filed by the Petitioner challenges Award Part-I. A Cross-Petition has also been filed by the Company. Both the Petitions have been admitted by me on 15th March 2004 and the proceedings before the Labour Court have also been stayed. This was because the Petitioner insisted that the Reference before the Labour Court should be stayed.

3. Unless the Reference is decided and an Award Part-II is made, the Petitioner is not entitled to wages under Section 17B of the Industrial Disputes Act, 1947. The claim made for subsistence allowance also cannot be granted since there was no suspension order prior to termination of service nor is this a case where proceedings were instituted under Section 33(2)(b) of the Industrial Disputes Act, 1947. In such circumstances, subsistence allowance cannot be paid to the Petitioner.

4. The second prayer made by the Petitioner is for fixing the Writ Petition for final hearing. It is not possible to do so at this stage as there are other matters which need immediate and emergent attention since they are pending already in this Court for a long number of years. Hence, this prayer is rejected.

5. For the foregoing reasons, Civil Application

rejected.